

# United States Court of Appeals

## Eleventh Circuit

56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

Thomas K. Kahn  
Clerk

In Reply, Give Number  
Of Case and Names of Parties

March 19, 2004

**VIA FACSIMILE**

TO ALL COUNSEL OF RECORD

Re: 00-15783 - Albert Adefemi v. John Ashcroft, et al.

Dear Counsel:

For the purposes of the upcoming en banc rehearing in the above-referenced case, the court desires for counsel to focus their briefs on the following issues:

- 1. The parties agreed in their initial briefs that the deferential substantial evidence test governs this Court's review of the administrative fact finding that Adefemi had a firearms conviction. What does the deferential substantial evidence test mean in the immigration law context, and how is it to be applied?**
- 2. Is it relevant to the substantial evidence test that the INS had to prove Adefemi's deportability by clear and convincing evidence or, under the substantial evidence test, is this Court precluded from weighing the evidence and re-determining whether the INS carried its burden of proof by clear and convincing evidence?**
- 3. Whether, under the substantial evidence test, the administrative fact finding that Adefemi had a firearms conviction must be affirmed or reversed and why?**

Appellant's opening brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Monday, April 19, 2004. Appellee's opening brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Wednesday, May 19, 2004. Any reply brief by the Appellants must be filed in the Clerk's Office in Atlanta by 5:00 p.m., Wednesday, June 2, 2004. **NO EXTENSIONS WILL BE GRANTED.** An original and 18 copies of the en banc briefs should be filed (appellant's in blue covers, appellees' in red covers and any reply in gray covers). **NO EXTENSIONS WILL BE GRANTED.** The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). **NO TIME FOR MAILING SHALL BE ALLOWED.** All parties are also required to upload the brief in electronic format to the court's Web site as described in 11th Cir. R. 31-5.

**All counsel** are requested to file 16 copies of their opening panel briefs, record excerpts and supplemental authorities prior to 5:00, Monday, April 19, 2004.

The case will be argued before the Court sitting en banc on Tuesday, **June 15**, 2004, in Atlanta, Georgia. Counsel will be allotted fifteen minutes per side for oral argument. Counsel will receive a calendar notifying of the time of oral arguments at a later date.

Thank you for your attention to this matter.

Sincerely,

THOMAS K. KAHN, Clerk

By: \_\_\_\_\_

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